

ENTERED

April 24, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
VS.	§	CIVIL ACTION NO. 7:08-CV-206
	§	
1.22 ACRES OF LAND, MORE OR LESS,	§	
<i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

The Court now considers the “Opposed Motion by the United States of America to Add New Persons as Defendants”¹ filed by the United States of America (“United States”). Therein, the United States asserts the motion is “‘opposed’ out of an abundance of caution” because it is “unable to locate all parties potentially affected by this Motion.”² Regardless, no defendant or individual named in the United States’ motion filed a response and the time for doing so has now passed, rendering the motion ripe for review. After reviewing the motion, record, and relevant authorities, the Court **GRANTS** the motion.

Federal Rule of Civil Procedure (“Rule”) 71.1(c)(3) governs the joinder of parties in a property condemnation proceeding.³ Before any compensation hearing, “the plaintiff *must* add as defendants all those persons who have or claim an interest and whose names have become known or can be found by a reasonably diligent search of the records, considering both the property’s character and value and the interests to be acquired.”⁴ A plaintiff may add all other

¹ Dkt. No. 37.

² *Id.* at p. 6.

³ Fed. R. Civ. P. 71.1(c)(3).

⁴ *Id.* (emphasis added).

defendants by designating them as “Unknown Owners.”⁵ Rule 71.7(d) governs notice requirements for added defendants.⁶

The United States now requests the Court add fifty-two parties because its “research has identified fifty-two people who have or may claim an interest in the compensation to be paid in this case.”⁷ The United States describes these fifty-two parties as being identified “as additional interested parties in the condemnation of the Subject Property.”⁸ Further, the United States asserts it “is in the process of publishing notice directed to them to provide them with notice of this case.”⁹ Accordingly, the United States attaches a service list with fifty-*four* names and their corresponding city locations.¹⁰

First, the Court notes no hearing on compensation has been held in this case, thus the United States makes such request within the necessary timeframe under Rule 71.1(c)(3).¹¹ Next, the Court questions the relationship between the names listed on the United States’ motion and the attached service list. The motion lists fifty-two names.¹² Yet, the service list includes fifty-four names with corresponding cities.¹³ The United States contends it will serve the motion “on the parties . . . listed on the attached service list . . . on or before Friday, March 15, 2019.”¹⁴ To date, no proof of service has been filed. Confusingly, the United States concludes it is “unable to locate all parties potentially affected by this Motion.”¹⁵

⁵ *Id.*

⁶ Fed. R. Civ. P. 71.1(c)(4); *see* Fed. R. Civ. P. 71.1(d).

⁷ Dkt. No. 37 p. 1.

⁸ *Id.* at p. 2.

⁹ *Id.* at p. 1.

¹⁰ Dkt. No. 37-1.

¹¹ Fed. R. Civ. P. 71.1(c)(3).

¹² Dkt. No. 37.

¹³ Dkt. No. 37-1.

¹⁴ Dkt. No. 37 p. 6.

¹⁵ *Id.*

The United States also fails to describe the relationships, if any, between the names listed in the motion and the names included in the attached service list. Thus, the Court sets out its own list linking the motion's fifty-two named individuals to the service list's provided names and corresponding cities:

- | | |
|---|--|
| 1. Ruben Flores, III (Richland, MO) | 29. Aurora M. Flores Trigo (Sullivan City, TX) |
| 2. David Mathew Morin (Harlingen, TX) | 30. Maribel J. Jimenez (Seguin, TX) |
| 3. Ricardo Romeo Flores (St. Robert, MO) | 31. Florentino Flores (Los Ebanos, TX) |
| 4. Randy Lee Flores (St. Robert, MO) | 32. Arnulfo Flores (Sullivan City, TX) |
| 5. Mary Katherine Flores Ramirez (Mason, AZ) | 33. Elizabeth F. Salinas (Los Ebanos, TX) |
| 6. Keith Allen Brandenburg (Salem, IL) | 34. Froilan Ramirez, III (San Antonio, TX) |
| 7. Leah Brandenburg (McAllen, TX) | 35. Maricela Flores Ramirez (Sullivan City, TX) |
| 8. Robert Michael Valdez (Edinburg, TX) | 36. Patricia Ramirez Oviedo (Sullivan City, TX) |
| 9. Richard Paul Valdez (Edinburg, TX) | 37. John Jeffery Oviedo (<u>possibly</u> John Jeffery Flores, Austin, TX) |
| 10. Elizabeth Valdez (McAllen, TX) | 38. Felicia Miranda Flores (Uvalde, TX) |
| 11. Arnoldo Flores (Zapata, TX) | 39. Maria Del Rosario Flores Salinas (Alton, TX) |
| 12. Idolina Flores Gutierrez (Los Ebanos, TX) | 40. Gilberto Flores, Jr. (Mission, TX) |
| 13. Noelia M. Gutierrez (San Juan, TX) | 41. Guadalupe Flores (Fort Worth, TX) |
| 14. Noemi Munoz (Mission, TX) | 42. Roberto Flores (Los Ebanos, TX) (<u>possibly</u> c/o Estate of Maria Dolores Pena Flores, Los Ebanos, TX 78565) |
| 15. Noe Ruben Munoz (Mission, TX) | 43. Hermelinda F. Garza (Los Ebanos, TX) |
| 16. Elizandro Munoz, Jr. (Harlingen, TX) | 44. Ernestina F. Campos (Sullivan City, TX) |
| 17. Emma Lydia Munoz Duran (Palmview, TX) | 45. Irma F. Luna (Los Ebanos, TX) |
| 18. Maria Luisa Flores Ruiz (Mission, TX) | 46. Hector Flores (Mission, TX) |
| 19. Rene Flores, Jr. (Edinburg, TX) | 47. San Juana Alicia Flores (Sullivan City, TX) |
| 20. Oscar David Flores (Palmview, TX) | 48. Gustavo Flores, Jr. (Sullivan City, TX) |
| 21. Norma Linda F. Cardenas (Mission, TX) | |
| 22. Aaron Javier Flores (Los Ebanos, TX) | |

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|---|---|
| 23. Jose Ramiro Flores (Edinburg, TX) | 49. Gilberto Flores (Sullivan City, TX) |
| 24. Matias Flores, Jr. (Mission, TX) | 50. Rodolfo Manuel Pena (Sullivan City, TX) |
| 25. Ricardo G. Flores (Edinburg, TX) | 51. Maria Luisa Cavazos (McAllen, TX) |
| 26. Roel Flores (Edinburg, TX) | 52. Rodolfo M. Pena, Jr. (Mission, TX) |
| 27. Antonio Manuel Flores (Palmview, TX) | |
| 28. Aminda Minerva F. Munoz (Sullivan City, TX) | |

Moreover, the Court points out the United States fails to explain the motion's exclusion—but service list's inclusion—of “Dillard National Bank c/o Brent P. Burford, Attorney of Record, Southlake, TX 76092” and “Christie Elizabeth Flores Salazar, San Antonio, Texas 78264” and the connection, if any, of “John Jeffery Flores” and the “Estate of Maria Dolores Pena Flores” to any of the instant fifty-two individuals.¹⁶ Without more, it is not evident whether the United States *must* add “Dillard National Bank c/o Brent P. Burford, Attorney of Record, Southlake, TX 76092”; “Christie Elizabeth Flores Salazar, San Antonio, Texas 78264”; “John Jeffery Flores”; and the “Estate of Maria Dolores Pena Flores.”¹⁷ The Court will thus not add them to the case at this time.

Notwithstanding the instant deficiencies and discrepancies, the Court finds the United States meets the criteria under Rule 71.1(c)(3) for certain named individuals. Accordingly, the Court **GRANTS** the motion **IN PART** and **ADDS** the following individuals:

- | | |
|--|---|
| 1. Ruben Flores, III (Richland, MO) | 28. Aminda Minerva F. Munoz (Sullivan City, TX) |
| 2. David Mathew Morin (Harlingen, TX) | 29. Aurora M. Flores Trigo (Sullivan City, TX) |
| 3. Ricardo Romeo Flores (St. Robert, MO) | 30. Maribel J. Jimenez (Seguin, TX) |
| 4. Randy Lee Flores (St. Robert, MO) | 31. Florentino Flores (Los Ebanos, TX) |
| 5. Mary Katherine Flores Ramirez (Mason, AZ) | 32. Arnulfo Flores (Sullivan City, TX) |

¹⁶ Dkt. No. 37-1.

¹⁷ See *id.*

6. Keith Allen Brandenburg (Salem, IL)
7. Leah Brandenburg (McAllen, TX)
8. Robert Michael Valdez (Edinburg, TX)
9. Richard Paul Valdez (Edinburg, TX)
10. Elizabeth Valdez (McAllen, TX)
11. Arnoldo Flores (Zapata, TX)
12. Idolina Flores Gutierrez (Los Ebanos, TX)
13. Noelia M. Gutierrez (San Juan, TX)
14. Noemi Munoz (Mission, TX)
15. Noe Ruben Munoz (Mission, TX)
16. Elizandro Munoz, Jr. (Harlingen, TX)
17. Emma Lydia Munoz Duran (Palmview, TX)
18. Maria Luisa Flores Ruiz (Mission, TX)
19. Rene Flores, Jr. (Edinburg, TX)
20. Oscar David Flores (Palmview, TX)
21. Norma Linda F. Cardenas (Mission, TX)
22. Aaron Javier Flores (Los Ebanos, TX)
23. Jose Ramiro Flores (Edinburg, TX)
24. Matias Flores, Jr. (Mission, TX)
25. Ricardo G. Flores (Edinburg, TX)
26. Roel Flores (Edinburg, TX)
27. Antonio Manuel Flores (Palmview, TX)
33. Elizabeth F. Salinas (Los Ebanos, TX)
34. Froilan Ramirez, III (San Antonio, TX)
35. Maricela Flores Ramirez (Sullivan City, TX)
36. Patricia Ramirez Oviedo (Sullivan City, TX)
37. John Jeffery Oviedo (city unknown)
38. Felicia Miranda Flores (Uvalde, TX)
39. Maria Del Rosario Flores Salinas (Alton, TX)
40. Gilberto Flores, Jr. (Mission, TX)
41. Guadalupe Flores (Fort Worth, TX)
42. Roberto Flores (Los Ebanos, TX)
43. Hermelinda F. Garza (Los Ebanos, TX)
44. Ernestina F. Campos (Sullivan City, TX)
45. Irma F. Luna (Los Ebanos, TX)
46. Hector Flores (Mission, TX)
47. San Juana Alicia Flores (Sullivan City, TX)
48. Gustavo Flores, Jr. (Sullivan City, TX)
49. Gilberto Flores (Sullivan City, TX)
50. Rodolfo Manuel Pena (Sullivan City, TX)
51. Maria Luisa Cavazos (McAllen, TX)
52. Rodolfo M. Pena, Jr. (Mission, TX)

While it is not the United States' burden at this time, the Court notes it is unclear who of the abovementioned fifty-two individuals has what interest(s) in Tracts RGV-MCS-1022E-1, RGV-MCS-1022E-2, RGV-MCS-1022E-3, and RGV-MCS-1022E-4.¹⁸ In preparation for any potential just compensation issues, the Court cautions the United States to identify the property

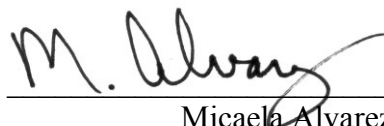
¹⁸ See Dkt. Nos. 1-1, 2-1, 3-1, 8-1, 9-1, 10-1, 21-1, 22-1.

of which these fifty-two individuals have an interest in and how much corresponding interest. To encourage swift resolution of the case, the Court **ORDERS**:

- the United States to provide evidence of service on the abovementioned fifty-two individuals or to properly serve notice to the abovementioned fifty-two individuals **by June 11, 2019**;
- the parties to file a status report **by July 5, 2019**, updating the Court on the progress of the case including which parties have an interest in which Tracts and any ongoing or resolved just compensation issues; and
- the parties to appear for a status conference **on Tuesday, July 16, 2019 at 9:00 a.m.**

IT IS SO ORDERED.

DONE at McAllen, Texas, this 23rd day of April, 2019.

A handwritten signature in black ink, appearing to read 'M. Alvarez', is written over a horizontal line.

Micaela Alvarez
United States District Judge